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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/683,646	10/10/2003	Roy D. Cideciyan	HSJ920030151US1 (HITG.047)	1233
51298	7590	07/27/2005	EXAMINER	
CRAWFORD MAUNU PLLC 1270 NORTHLAND DRIVE SUITE 390 ST. PAUL, MN 55120			MERCEDES, DISMERY E	
			ART UNIT	PAPER NUMBER
			2651	

DATE MAILED: 07/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/683,646	Applicant(s) CIDECIYAN ET AL.	
	Examiner Dismery E. Mercedes	Art Unit 2651	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10, 12-23 and 25-44 is/are pending in the application.
- 4a) Of the above claim(s) 11 and 24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 16, 28, 29 and 44 is/are rejected.
- 7) ☒ Claim(s) 1-10, 12-15, 17-23, 25-27 and 30-43 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 April 2005 and 10 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Applicant's amendment filed 4/14/2005 has been fully considered and entered.

Claim Objections

2. Claims 12-13 are objected to because of the following informalities: Claim 12 is dependent upon a cancelled claim (claim 11 has been cancelled). Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1, 16, 28, 29, 44 lacks proper antecedent basis.

As to Claim 1, recites the limitation "for each sequence selection stage" in page 3 lines 9-10, which does not coincide with what was previously recited in line 4, "a sequence selection stage".

There is insufficient antecedent basis for this limitation in the claim.

As to Claim 16, recites the limitation "for each sequence selection stage" in page 7 lines 10-11, and "the Viterbi decoder" line 12. There is no mention or previous recitation of sequence selection stages or Viterbi decoder in the claim. There is insufficient antecedent basis for this limitation in the claim.

As to Claim 28, recites the limitation "for each sequence selection stage" in page 9 lines 6-7 and "the Viterbi decoder" line 8. There is no mention or previous recitation of sequence selection stages or Viterbi decoder in the claim. There is insufficient antecedent basis for this limitation in the claim.

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As to Claim 29, recites the limitation "for each sequence selection stage" in page 10 lines 17-18, which does not coincide with what was previously recited in line 12, "a sequence selection stage". There is insufficient antecedent basis for this limitation in the claim.

As to Claim 44, recites the limitation "the Viterbi decoder" line 12. There is insufficient antecedent basis for this limitation in the claim.

Allowable Subject Matter

5. Claims 1,16,28,29,44 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

6. Claims 2-10, 12-15, 17-23, 25-27, 30-43 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Tran (WO 00/33500); Bush et al. (6,158,027); Karabed et al. (US 5,809,080); Cideciyan et al. (US 6,640,150 B1); McEwen et al. (US 6,732,328 B1); Livingston (US 6,513,141 B1).

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dismery E. Mercedes whose telephone number is 571-272-7558. The examiner can normally be reached on Monday - Friday, from 9:00am - 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Hudspeth can be reached on 571-272-7843. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Dismery E Mercedes
Examiner
Art Unit 2651

DM 

DAVID HUDSPETH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600